

IN THE UNITED STATES MIDDLE DISTRICT OF ALABAMA

Courtney Boyd  
Plaintiff

Vs.  
Dr. Darbouze et.al.,  
Defendants

RECEIVED  
Case No. 2:06-cv-511-WKW

2008 FEB 12 A 10:33

~~EBRA P HACKETT CLERK~~  
~~MOTION TO OBJECTING TO THE MAGISTRATE JUDGE~~  
~~RECOMMENDATION ENTERED ON FEBRUARY 7, 2008:~~

Comes Now, The Plaintiff, Courtney Boyd, moves into this Honorable Court objecting to the Magistrate Judge Recommendation entered on Feb. 7, 2008. The Plaintiff submit the following insupport of this Motion:

1. The Plaintiff received this Honorable Court Recommendation of the Magistrate Judge Coody, which he says that the plaintiff failed to exhaust his administrative remedies. However this is a error by this Honorable Court, becuase the plaintiff record shows clearly that he exhausted his administrator remedies procedure, all to still be denied by the Defendants, so this Complaint was his last available remedies left.
2. The PLRA requires exhaustion of available administrative remedies before a prison can seek relief in a federal court on a 1983 Complaint. Title 42 U.S.C. 1997(e)(a) only requires that the prisoner follows the administrative remedies given to him. In this Case, the Administrative Remedies are (1) Complaint, which the plaintiff filed to the Head Office of Prison Health Service on 5-4-06, which he never got a answer from them, but did received a letter from Ms.Kay Wilson H.S.A. See Exhibit A, which is a copy of the complaint and the letter Ms.Kay Wilson wrote back. (2) is the Grievance Form, which the palintiff filed on 5-10-06, which Ms.Kay Wilson answer on 5-12-06. See Exhibit B, which is a copy of this Grievance Form. (3) Is the Appeals Grievance Form, which the plaintiff filed on 5-17,06, which he never got back from Ms.Kay Wilson H.S.A. Therefore the plaintiff followed very available remedies made to him, by Prison Health Service before filing this Complaint.
3. The Plaintiff was told Ms.Kay Wilson, on 5-12-06, to sign back up for sick call if I was stil having problems. Which I did on 5-28-06, and I was seen by Defendant Bush, who set me a vist with the Doctor on 6-02-06. See Exhibit C, which is a copy of the Sick Call Reuquest. On 6-02-06, the Plaintiff was seen by Dr.Darbouze

who told him that he was discontinuing his profiles for his back brace and bottom bed. See Exhibit D, which is a copy of the Doctor order. The Plaintiff then filed a another Grievance from, which the Defendant Wilson answer and said " Mr. Boyd when you were seen by Dr.Darbouze at your appointment, there were no profiles medically indicated. Dr.Darbouze did not say he would going to take the profiles he had given you. You gave your profiles back to the nurse and your back brace. See Exhibit B in the plaintiff Traverse filed on September 6,2006. 4. The Plaintiff filed a Complaint to the Head Office of Prison Health Service, which he received a answer form Defendant Wilson on 5-4-06, the same day the plaintiff filed it to the Head Office. See Exhibit A.

5. The Plaintiff then filed a Grievance from on 5-10-06, which Mr.Kay Wilson answer on 5-12-06. See Exhibit B. The Plaintiff filed a Appeals Grievance From on 5-17-06, which he never received a answer back from Ms.Wilson or Prison Health Serivce.

6. The Petitioner filed a second Appeals Grievance on 8-20-07,becuase of what happen on 6-02-06 to him. The Plaintiff was told that he will see Dr.McQueen, who until this day, he never seen. See Exhibit F.

7. P.H.S. only gives inmates (3) ways to file a compalint, and the plaintiff has followed everyone beforoe filing this Complaint into this Honorable Court. See Exhibits offered with this Objection. Therefore the plaintiff has exhausted all of the availble Administrative remedies given to him by P.H.S., before filing this complaint.

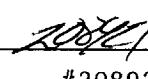
#### CONCLUSION

The conclusion that the plaintiff did exhausted all of the availble remedies, of Prison Health Service before filing this Complaint into this Honorable Court and the Recommendation should be set aside and this matter set down for a hearing on the claim that his before this Honorable Court. Because the Plaintiff meet the requirement of Prison Litigation Reform Act, under Title 42 U.S.C. 1997(e)(a).

**WHEREFORE**, The Plaintiff prays that this Honorable Court will grant this Motion and set aside its Recommendation entered on February 7,2008.

#### CERTIFICATE OF SERVICE

I hereby ceritfy that I have served a copy of the foregoing upon the Defendants Counsel, by placing it into Ventress Corr.Fac. Mail Box on February 9,2008.

   
Courtney Boyd/ Plaintiff #208921

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Courteny Boyd #208921  
Plaintiff

Vs.

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Defendants

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State of Alabama]  
County of Barbour]

DEBRA P. HACKETT, CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

AFFIDAVIT IN SUPPORT OF THE PLAINTIFF MOTION  
TO OBJECT TO THE MAGISTRATE JUDGE RECOMMENDATION  
ENTERED ON FEBRUARY 7, 2008:

My Name is Courtney Boyd, and I'm over the age of 21 years old and is incarcerated at Ventress Corr.Fac. at P.O.BOX 767 Clayton, Ala, 36016.

I, The Plaintiff, Courtney Boyd, do hereby sworn that on 5-4-06, He filed a Complaint to the Head Office, and that he never received a answer from them and on that same day, he received a letter from Ms.Wilson H.S.A. See Exhibit A, in the Motion. I then filed a Grievance from on 5-10-06, which was answered on 5-12-06, by Ms.Wilson H.S.A. I then filed a Appeals Grievance From, which I never received a answer from anyone, the Appeals Grievance from was filed on 5-17-06. I then, because I was still having problems signed up for sick call and was seen by Defendant Bush, who set me a vist to see the Doctor on 6-02-06. On that day the Doctor took my back brace and bottom bed profile. On 6-14-06, I filed a second Grievance from, which Ms.Wilson answer on 6-17-06. See Exhibit B, in the Plaintiff Traverse filed on September 6, 2006. I, then filed a second Appeals from seeking help, that when I was told that I would be seen by another Dr.Doctor, Dr.McQueen, which I never seen until this day. I do hereby sworn that I have exhausted all of the availble administrative remedies for me, before I filed this Complaint into this Honorable Court.

I do hereby sworn that this Affidaivt is true and corrected.

Pursuant to 28 U.S.C. Section 1746, I, Courtney Boyd, do hereby sign under the penalty of perjury that the foregoing is true and correct. Executed on; February 9, 2008.

  
Courtney Boyd/Plaintiff